

ENTERED

June 03, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ROGER FOUNTAIN,	§	CIVIL ACTION NO.
Plaintiff,	§	4:21-cv-03020
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
OPENDOOR LABS INC,	§	
Defendant.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Roger Fountain brought this action *pro se* in the Justice Court, Precinct Five, Place Two of Harris County, Texas. He alleges Defendant Opendoor Labs Inc violated the Telephone Consumer Protection Act. Dkt 1-1 at 4.

Opendoor Labs removed the action to this Court and moved to dismiss for failure to state a claim. Dkts 1 & 4. The case was then referred to Magistrate Judge Sam S. Sheldon and later to Magistrate Judge Christina A. Bryan for full pretrial management pursuant to 28 USC § 636(b)(1)(A) and (B) and Rule 72 of the Federal Rules of Civil Procedure. Dkts 8 & 17.

Judge Bryan issued a Memorandum and Recommendation on May 17, 2022, recommending that the motion to dismiss be granted and that the claims be dismissed with prejudice unless Fountain within fourteen days of entry of the Memorandum and Recommendation filed an amended complaint that alleged enough facts to state a plausible claim for violation of a specific provision of the TCPA. Dkt 18 at 2. Neither party filed objections, and Fountain hasn't filed an amended complaint within the allotted time.

When no party objects to the conclusions of a magistrate judge, the reviewing court need only satisfy itself that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1420 (5th Cir 1996); see also FRCP 72(b) advisory committee note (1983).

The Court has reviewed the pleadings, the record, the applicable law, and the recommendation. No clear error appears.

The Memorandum and Recommendation is ADOPTED as the Memorandum and Order of this Court. Dkt 18.

The motion by Defendant Opendoor Labs Inc to dismiss is GRANTED. Dkt 4.

The claims by Plaintiff Roger Fountain are DISMISSED WITH PREJUDICE.

A final judgment will issue separately.

SO ORDERED.

Signed on June 3, 2022, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Ch R Eskridge". The signature is stylized and written over a horizontal line.

Hon. Charles Eskridge
United States District Judge